

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 606 of 1998

with

SPECIAL CRIMINAL APPLICATION No. 607 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NAUSHAD T CHAWALA

Versus

STATE OF GUJARAT

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Appearance:

Spl. Cri. Appln. No. 606 of 1998  
PARTY IN PERSON - Petitioner  
MR SR DIVETIA APP for Respondent No. 1  
MR MC SHAH for Respondent No. 2, 3, 4

Spl. Cri. Appln. No. 607 of 1998  
PARTY IN PERSON - Petitioner  
MR PB BHATT APP for Respondent No. 1  
MR MC SHAH for Respondent No. 2, 3, 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of Order: 21/11/98

## COMMON JUDGMENT

Petitioner in both these applications is the complainant in Criminal Cases Nos. 458 of 1994 and 391 of 1996 lodged before the learned Metropolitan Magistrate, Court No. 16, Ahmedabad. The complainant has appeared in person and has argued these petitions. Both the petitions involve identical questions of law and are, therefore, disposed of by this common judgment.

2. It appears that the complainant has been dealing in shares & stock through the respondents-accused who are the share-brokers. It is the allegation of the complainant that the accused deliberately did not maintain proper accounts of the share dealings of the complainant and did not show correct price of the shares purchased or sold by the complainant, thereby causing loss of around Rs. 10,00,000/= to the complainant.

3. The complainant therefore lodged above referred two complaints before the learned Metropolitan Magistrate Court No. 16, Ahmedabad. Under the orders dated 30th September, 1997, the learned Magistrate held that the dispute was of civil nature and discharged the accused. Feeling aggrieved, the complainant preferred above revision applications Nos. 329 of 1997 and 328 of 1997 before the learned Addl. City Sessions Judge, Court No. 11, Ahmedabad which too came to be dismissed under the judgment and orders dated 1st December, 1998. Feeling aggrieved, the complainant has preferred these writ petitions.

4. I have perused the complaint and the orders made by the Courts below. I am of the view that both the Courts below are right in holding that the disputes are of civil nature and the accused are, therefore, rightly discharged by the learned Magistrate. Besides, the present petitions are in the nature of the second revision applications against the judgments and orders passed by the learned Sessions Judge in revision applications preferred by the petitioner. The second revision application having been expressly barred under Section 397 (3) CrPC, the present petitions which are in the nature of second revision applications can not be entertained. Present petitions, therefore, deserve to be dismissed.

5. Both the petitions are, therefore, dismissed. Rule nisi issued in each of the petitions is discharged. There shall be no order as to costs.

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Prakash\*